

TITLE 175  
CHAPTER 18

HEALTH CARE FACILITIES AND SERVICES LICENSURE  
SUBSTANCE ABUSE TREATMENT CENTERS

**Note: In these draft regulations, proposed fee changes are found on page 16. Technical, editing, and writing style changes are made throughout the chapter. Other proposed changes will revise or add regulations on:**

- ◆ Food code and construction codes, pages 4 and 50
- ◆ Renewal applications, pages 11-12
- ◆ Events requiring notice to the Department, page 14
- ◆ Deemed compliance, pages 14-16
- ◆ Inspections, pages 16-21
- ◆ Background checks, page 23
- ◆ Restraints and seclusion, pages 35-42
- ◆ Disaster preparedness, pages 46-47

18-001 SCOPE: These regulations govern licensure of substance abuse treatment centers. The regulations are authorized by and implement the Health Care Facility Licensure Act, Neb. Rev. Stat. sections §§ 71-401 to 71-462.

18-001.01 These regulations apply to:

1. Inpatient facilities; and
2. Outpatient facilities.

18-001.01A Inpatient Facilities: An inpatient facility is any private dwelling, where shelter, food, and care, or treatment, or maintenance, or related services are directly provided or arranged for by the facility to persons who are substance abusers living in a group setting.

18-001.01A1 Inpatient facilities are residential settings.

18-001.01B Outpatient fFacilities: An outpatient facility is a program or service provided for less than 24 consecutive hours primarily or exclusively to persons who are substance abusers.

18-001.01B1 Outpatient substance abuse treatment centers do not include services that can be rendered only by a physician or within a hospital.

18-001.01B2 Outpatient facilities are non-residential programs.

18-001.02 These regulations do not apply to:

1. Self-run or self-help programs;
2. A home, apartment or facility which does not exercise even minimum

- supervision over the personal care, activities of daily living, or health maintenance of the clients; or
3. Licensed or certified professionals who are in private practice providing services under their individual professional license or certification.

### 18-002 DEFINITIONS

Abuse means any knowing, intentional, or negligent act or omission on the part of a person which results in physical, sexual, verbal, or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of care, treatment or services to a client.

Activities of daily living (See definition of "Care".)

Adjoining means located to allow access without having to enter a general corridor area used or observed by other facility occupants.

Administrator means the operating officer of a substance abuse treatment center and may include such titles as administrator, chief executive officer, manager, superintendent, director or similar designation.

Apartment means the portion of a building that contains: living and sleeping areas; storage room(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink, and cooking and refrigeration appliances.

Applicant means the individual, government, corporation, partnership, limited liability company or other form of business organization who applies for a license.

Care means the exercise of concern or responsibility for the comfort, welfare, and habilitation of persons, including a minimum amount of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services.

1. Activities of daily living means transfer, ambulation, exercise, toileting, eating, self-administered medication, and similar activities;
2. Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and client responses are predictable; and
3. Personal care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Chemical restraint means a drug that is used for discipline or staff convenience and is not required to treat medical symptoms.

Civil protective custody means, under Neb. Rev. Stat. § 53-1,121, ~~the~~ taking custody of an

intoxicated individual:

1. Who is on public or quasi-public property;
2. For not longer than 24 hours;
3. In order to preserve life or prevent injury; and
4. By a law enforcement officer in whose judgement the person is a danger to self or others or is otherwise incapacitated;

Client means any person receiving care and/or treatment in a residential or nonresidential substance abuse treatment center.

Complaint means an expression of concern or dissatisfaction.

Completed application means an application that contains all the information specified in 175 NAC 18-003 and includes all required attachments, documentation, and the licensure fee.

Counseling means a professional relationship in which a mental health practitioner assists the client to understand, cope with, solve, and/or prevent problems, such as, but not limited to areas of education, vocation, and/or interpersonal relationships in the social environment.

Crisis management means treatment provided to immediately resolve an acute physical, social, or psychological emergency. It may include temporary housing, food, care, treatment, or referral to an emergency medical service or to a facility appropriate to meet the needs of the person. It is frequently the entry point into the continuum of care and provides an initial screening and evaluation.

Department means the Department of Health and Human Services Regulation and Licensure.

Designee means a person who is authorized by law or by the client to act on his or her behalf, for example: a parent of a minor child, a legal guardian, a conservator, and an attorney in fact named in a durable power of attorney for health care.

Diagnosis means the act or process of identifying or determining the nature of a disease by way of examination.

Direction and monitoring, means, for the purpose of medication administration, the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions and contraindications associated with the medication. Direction and monitoring may be done by a:

1. Competent individual for himself or herself;
2. Caretaker; or
3. Licensed health care professional.

Director means the Director of Regulation and Licensure.

Dwelling means a building that contains living and sleeping areas; storage room(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink, and cooking and refrigeration appliances.

Elopement means to run or slip away from the licensed facility or service without the knowledge of staff.

Emergency detoxification program means civil protective custody and/or social setting emergency detoxification.

Existing facility means a substance abuse treatment center whose construction or remodeling plans were approved by the Department prior to the effective date of 175 NAC 18.

Facility means a substance abuse treatment center.

Financial exploitation means the taking of property of a client by means of undue influence, breach of a fiduciary relationship, deception, or extortion or by any unlawful means.

Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time.

Food means nourishment or meals directly provided or arranged for the client by the facility regularly.

Food Code means the Nebraska Food Code, ~~1999 Edition, Chapters 1-7~~ as defined in Neb. Rev. Stat Section § 81-2,244.01 and as published by the Nebraska Department of Agriculture, Bureau of Dairies and Foods except for compliance and enforcement provisions.

Foreign, when applied to a corporation, means one incorporated in a state other than Nebraska.

Grievance means a written expression of dissatisfaction which may or may not be the result of an unresolved complaint.

Health care facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, a pharmacy, psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, a skilled nursing facility, or a substance abuse treatment center.

Health care service means an adult day service, a home health agency, a hospice or hospice service, or a respite care service.

Health maintenance activities (See definition of "Care".)

Individualized service plan (ISP) means a written action plan based on assessment data that identifies the client's needs and the strategy for providing care and/or treatment to meet those needs.

Inpatient facility means a residential facility that provides food, shelter, and an organized program of therapeutic activities that includes evaluation, rehabilitation, care and/or treatment for persons who are substance abusers.

Licensed health care professional means an individual for whom administration of medication is included in the scope of practice.

Licensee means the individual, government, corporation, partnership, limited liability company, or other form of business organization legally responsible for the operation of the facility and to whom the Department has issued a license.

Maintenance activities means provision of services intended to support the person who is a substance abuser to reduce or eliminate the abuse of substances.

Manual restraint means the direct application of physical force by staff to a client, without the client's permission, to restrict his or her freedom of movement, without the use of mechanical or chemical restraints.

Mechanical restraint means any device, such as, a material or piece of equipment (such as, leather straps/belts and steel cuffs) attached or adjacent to an individual's body that he or she cannot remove easily and that restricts freedom of movement or normal access to his or her own body. This does not include the use of protective devices, such as, orthopedic appliances, braces or other devices used for postural support or to assist in obtaining and maintaining normal bodily functioning.

Medical practitioner means any licensed physician, osteopathic physician, dentist, podiatrist, optometrist, chiropractor, physician assistant, certified registered nurse anesthetist, advanced practice registered nurse, or certified nurse midwife.

Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans.

Medication administration means:

1. Providing medications for another person according to the five rights;
2. Recording medication provision; and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interaction, and contraindications associated with the medication.

Medication aide means an individual who is listed on the medication aide registry operated by the Department as provided in 172 NAC 95 and 96.

Medication provision means giving or applying a dose of medication to an individual and includes helping an individual in giving or applying the medication to himself or herself.

Mental abuse means humiliation, harassment, threats of punishment or deprivation, or other actions causing mental anguish.

NAC means Nebraska Administrative Code.

Neglect means a failure to provide care, treatment or services necessary to avoid physical harm or mental anguish of a client.

New construction means a facility or a distinct part of a facility in which care and treatment is to be provided and which is enlarged, remodeled or altered in any fashion or is built from the ground up on or after the effective date of 175 NAC 18.

New facility means a facility or a distinct part of a facility in which care and treatment is to be provided and which is enlarged, remodeled or altered in any fashion. New facility also includes those facilities, which were previously licensed for care and treatment in another licensure category which now seeks licensure in a different category and those facilities that were not previously licensed to provide care and treatment in any licensure category.

Outpatient facility means an organized program of therapeutic activities that includes evaluation, rehabilitation, care and/or treatment on a regularly scheduled basis or in response to crisis management for persons who are substance abusers that are not residents of this facility but receive care and treatment in non-residential setting.

Personal care (See definition of "Care".)

Physical abuse means hitting, slapping, pinching and kicking or other actions causing injury to the body.

Premises means a facility, the facility's grounds and each building or grounds on contiguous property used for administering and operating a facility.

PRN means an administration scheme, in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness.

Qualified inspector means a professional architect or engineer licensed to practice in Nebraska, an official or employee of a local jurisdiction authorized by that jurisdiction to make inspections of particular building equipment or systems, or an individual certified by a nationally recognized organization to make such inspections.

Related services means those activities that assist the client in carrying out their therapeutic activities as outlined in their individualized service plan.

Restraints means the use of manual, mechanical, chemical or other means to temporarily subdue an individual or otherwise limit a person's freedom of movement. (See definitions of "Mechanical restraints", "Chemical restraints", and "Manual restraints".)

Schematic plans means a diagram of the facility which describes the number and location of beds; the location of care and treatment rooms, Life Safety Code construction and occupancy classifications locations, fire compartments, and Fire Marshal approved points of safety.

Seclusion means the involuntarily confinement of an individual in a locked room. A locked room includes a room with any type of door locking device, or physically holding the door shut. (See definition of "Time-out".)

Self-help program means a program. in which persons who are substance abusers provide mutual support and encouragement to avoid substance abuse. If a substance abuse professional is involved in a self-help program it is only in an advisory or informational rather than a supervisory or administrative capacity.

Self-run program means a program, which may be residential, which is operated by persons who are substance abusers for their own benefit. If a substance abuse professional is involved in a self-run program it is only in an advisory or informational rather than a supervisory or administrative capacity.

Sexual abuse means sexual harassment, sexual coercion, or sexual assault.

Shelter means lodging that is directly provided to the client or arranged for the client by the facility for compensation.

Social setting emergency detoxification means a program, as described in 203 NAC 5-021, for the treatment of individuals who are experiencing acute intoxication and whose condition necessitates observation by a qualified person but does not necessitate medical treatment.

Substance abuse means the abuse of substances which have significant mood-changing or perception-changing capacities, which are likely to be physiologically or psychologically addictive, and the continued use of which may result in negative social consequences.

Supervision means the daily observation and monitoring of clients by direct care staff and oversight of staff by the administrator or administrator's designee.

Supportive services means those services which support personal care, provision of medications, activities of daily living and health maintenance activities.

Therapeutic activity means a professionally directed set of actions designed to lessen the

effects of the disease whether physical or mental and designed to facilitate a behavior change in the individual.

Time-out means the removal of a client from the setting in which he or she is exhibiting inappropriate behavior until the client exhibits appropriate behavior. Staff requires the client to remain in an unlocked room or area where there are no other individuals except for staff monitoring the client.

Treatment means a therapy, modality, product, device, or other intervention used to maintain well being or to diagnose, assess, alleviate, or prevent a disability, injury, illness, disease, or other similar condition.

Unlicensed direct care staff means personnel who are not licensed, certified, or registered under the Uniform Licensing Law or other state laws governing the practice of health care and whose primary responsibility is to manage, supervise and/or provide direct care of clients. These include staff qualified as medication aides.

Verbal abuse means the use of oral, written, or gestured language including disparaging and derogatory terms to clients or within their hearing distance, or within their sight.

**18-003 LICENSING REQUIREMENTS AND PROCEDURES:** Any person intending to establish, operate, or maintain a substance abuse treatment center must first obtain a license from the Department. A facility must not hold itself out as a substance abuse treatment center or as providing substance abuse treatment services unless licensed or meets one of the exceptions under the Health Care Facility Licensure Act. An applicant for an initial or renewal license must demonstrate that the substance abuse treatment center meets the care, treatment, and operational and physical plant standards of 175 NAC 18.

18-003.01 Initial License: The initial license process occurs in two stages. The first stage consists of the applicant's submission of affirmative evidence of the ability to comply with the operational and physical plant standards contained in 175 NAC 18-006 and 175 NAC 18-007. The application is not complete until the Department receives documents specified in 175 NAC 18-003.01.

The second stage consists of the Department's review of the completed application together with an inspection of the substance abuse treatment center. The Department determines whether the applicant meets the standards contained in 175 NAC 18 and the Health Care Facility Licensure Act.

18-003.01A Applicant Responsibilities: An applicant for an initial substance abuse treatment center license must:

1. Intend to provide shelter, food, and care, treatment, maintenance, or related services in a group setting to persons who are substance abusers; and/or

2. Intend to provide care and treatment on an outpatient basis primarily or exclusively to persons who are substance abusers but does not include services that can be rendered only by a physician or within a hospital;
3. Comply with the applicable codes, guidelines, and standards specified in 175 NAC 18-007;
4. Submit a written application to the Department as provided in 175 NAC 18-003.01B;
5. Receive approval in writing, from the Department, of schematic and, if new construction, of construction plans; and
6. Notify the Department at least 30 working days prior to planned client occupancy.

18-003.01B Application Requirements: An applicant may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the facility to be licensed, street and mailing address, telephone and facsimile number, if any;
2. The type of facility to be licensed;
3. Name of the administrator;
4. Name and address of the facility owner(s);
5. Ownership type;
6. Mailing address for the owner;
7. The preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the facility. The list must include all individual owners, partners, limited liability company members, and members of boards of directors owning or managing operations, and any other persons with financial interests or investments in the facility. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. The legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that such individual or organization accepts the legal responsibility for compliance with these regulations;
10. Applicant's social security number if the applicant is an individual; (To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document.)
11. Applicant's federal employer identification number, if not an individual;
12. Statement that the facility will be inpatient, outpatient or both and, if inpatient or both, the number of beds;
13. Signatures of:
  - a. The owner, if the applicant is an individual or partnership;

- b. Two of its members, if the applicant is a limited liability company;
  - c. Two of its officers, if the applicant is a corporation;
  - d. The head of the governmental unit having jurisdiction over the facility to be licensed, if the applicant is a governmental unit.
- 14. A copy of the registration as a foreign corporation filed with the Nebraska Secretary of State, if applicant is a foreign corporation;
  - 15. Schematic plans,
  - 16. For new construction, construction plans completed in accordance with The Engineers and Architects Regulation Act, Neb. Rev. Stat. Sections §§ 81-3401 to 81-3455. An applicant may construct a project and /or certification document, or obtain a form from the Department. Construction plans must include the following:
    - a. Project name, description of the project with quantity and floor area information on bed, care, treatment, bathing,
    - b. toileting, dining, and activity locations, building systems, medical equipment, street address, and contact person;
    - c. Site plan, floor plans, elevations, wall and building sections, construction details, plumbing and electrical diagrams, construction component schedules;
    - d. Complete list of names, titles and telephone numbers of other authorities reviewing or inspecting the construction;
    - e. Upon Department request, such additional information that may be required for review, such as structural and mechanical calculations, electrical system calculations, and product and equipment information; and
    - f. e. Certification, if any, from a licensed architect or engineer that the schematic plans, construction plans, and any revisions thereof meet the requirements of 175 NAC 18-007;
  - 17. Planned occupancy date;
  - 18. Copies of zoning approval from the relevant jurisdiction;
  - 19. Occupancy certificates issued by the State Fire Marshal or delegated authority; and
  - 20. The required licensure fee specified in 175 NAC 18-004.10.

18-003.01C Department Responsibilities: The Department ~~must~~ will:

- 1. Review the application for completeness;
- 2. Provide notification to the applicant of any information needed to complete the application;
- 3. Confirm, either by Department review or by accepting certification from an architect or engineer, that the schematic plans and, if new construction, the construction plans meet the standards of 175 NAC 18-007;
- 4. Upon receipt of the requested information, conduct an on-site inspection in accordance with 175 NAC 18-005 prior to the issuance of a license;

- and
5. Issue or deny a license based on the results of the initial inspection.

18-003.01D Denial of License: See 175 NAC 18-008.01 and 18-008.02 for grounds and procedures for the Department's denial of an initial license.

18-003.02 Renewal Licenses

18-003.02A Licensee Responsibilities: The licensee must submit a written application to the Department. The licensee may construct an application or obtain an application form from the Department. The licensure application must include:

1. Full name of the facility to be licensed, street and mailing address, telephone and facsimile number, if any;
2. The type of facility to be licensed;
3. Name of the administrator;
4. Name and address of the facility owner(s);
5. Ownership type;
6. Mailing address for the owner;
7. The preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the facility. The list must include all individual owners, partners, limited liability company members, and members of boards of directors owning or managing operations, and any other persons with financial interests or investments in the facility. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that such individual or organization accepts the legal responsibility for compliance 175 NAC 18;
10. Applicant's social security number if the applicant is an individual; (To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document.)
11. Applicant's federal employer identification number, if not an individual;
12. Statement that the facility is inpatient, outpatient or both and, if inpatient or both, the number of beds;
13. Signatures of:
  - a. The owner, if the applicant is an individual or partnership;
  - b. Two of its members, if the applicant is a limited liability company;
  - c. Two of its officers, if the applicant is a corporation;
  - d. The head of the governmental unit having jurisdiction over the

- facility to be licensed, if the applicant is a governmental unit;
14. ~~A copy of the registration as a foreign corporation filed with the Nebraska Secretary of State, if applicant is a foreign corporation;~~
  14. Occupancy certificates issued by the State Fire Marshal or delegated authority dated within the 12 18 months prior to the license expiration date; and
  15. The required licensure fee specified in 175 NAC 18-004.10.

18-003.02B Department Responsibilities: The Department ~~must~~ will:

1. Send a notice of expiration and an application for renewal to licensee's preferred mailing address no later than 30 days prior to the expiration date. The licensure renewal notice specifies:
  - a. Date of expiration;
  - b. Fee for renewal;
  - c. License number; and
  - d. Name and address of the facility;
2. Issue a renewal license when it determines that the licensee has submitted a completed renewal application;
3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
  - a. The licensee failed to pay its renewal fees or submit an application or both;
  - b. The license has expired;
  - c. The Department will suspend action for 30 days following the date of expiration;
  - d. Upon receipt of the renewal fee and completed renewal application, the Department shall issue the renewal license; and
  - e. Upon failure to receive the renewal fee and completed renewal application, the license will be lapsed; and
4. Place the facility license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the facility may not operate. The license remains in lapsed status until it is reinstated.

18-003.02C Refusal to Renew: See 175 NAC 18-008.01 and 18-008.02 for grounds and procedures for refusal to renew a license.

18-003.03 Reinstatement from Lapsed Status: A facility requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required licensure fee specified in 175 NAC 18-004.10. The application must conform to the requirements specified in 175 NAC 18-003.02.

18-003.03A The Department ~~must~~ will review the application for completeness and ~~must~~ will decide if an onsite inspection is needed to determine compliance with the physical plant and the operation and care and treatment requirements of 175 NAC

18-006 and 18-007. The decision is based upon the following factors:

1. The length of time that has transpired from the date the license was placed on lapsed status to the date of the reinstatement application; and
2. Whether the facility has provided care or treatment from the site under a license that is different than that of the lapsed license.

18-003.03B When the Department decides that a reinstatement inspection is warranted, it must will conduct an inspection in accordance with 175 NAC 18-005.

18-003.03C When the Department decides that a reinstatement inspection is not warranted and that the application is complete, it must will reinstate the license.

18-003.03D Refusal to Reinstater: See 175 NAC 18-008.01 and 18-008.02 for grounds and procedures for refusal to reinstate a lapsed license.

#### 18-004 GENERAL REQUIREMENTS

18-004.01 Separate License: An applicant must obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. All buildings in which care and treatment is provided must comply with 175 NAC 18-006, and if applicable, 175 NAC 18-007. A single license may be issued for a facility operating in separate buildings or structures on the same premises under one management; .

18-004.02 Single License Document: The Department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed.

18-004.03 Effective Date and Term of License: A substance abuse treatment center facility license expires on September 30 of each year.

18-004.04 License Not Transferable: A license is issued only for the premises and persons named in the application and is not transferable or assignable. Change of ownership (sale, whether of stock, title, or assets, lease, discontinuance of operations) or premises terminates the license. If there is a change of ownership and the facility remains on the same premises, the inspection in 175 NAC 18-005 is not required. If a facility changes premises, it must pass the inspection specified in 175 NAC 18-005.

18-004.05 Bed Capacity, Usage, and Location: The licensee must not put into use more beds than the total number of beds for which the facility is licensed. Changes in the use and location of such beds may occur at any time without prior Departmental approval for licensure purposes. A licensee must not locate more clients in a sleeping room or bedroom than the capacity for which the room was originally approved.

18-004.06 Change of Ownership or Location Premises: The licensee must notify the

Department in writing ~~within five working days of the event if or when~~ 30 days before a substance abuse treatment center ~~facility~~ is sold, leased, discontinued, or moved to a new ~~location~~ premises.

18-004.07 Notifications: An applicant or licensee must notify the Department in writing by electronic mail, facsimile, or postal service:

1. At the time of licensure renewal of any change in the location of beds;
2. At least 30 working days prior to the date it wishes to increase the number of beds for which the facility is licensed;
3. To request a single license document;
1. To request simultaneous facility licensure inspections for all types of licensure held or sought;
4. If new construction is planned, submit construction plans prior to construction for Department approval prior to occupancy or use. The Department may accept certification from an architect or engineer in lieu of Department review;
6. Within 24 hours of any client death that meets the following criteria:
  - a. For outpatient services, the death occurred during the time staff were responsible;
  - b. For inpatient services, the death is due to a client's elopement, suicide, or a violent act;
7. Within 24 hours if the substance abuse treatment center has reason to believe that a client death was due to abuse or neglect by staff;
8. Within 24 hours of an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of clients; or
9. Within 24 hours of all facility fires.
8. ~~When a situation occurs that causes damage to the facility or a disruption in service. Such situation includes, but is not limited to, a natural disaster, water contamination, and disruption to any utilities for over 24 consecutive hours; or~~
9. ~~When there is a communicable disease outbreak.~~

18-004.08 Information Available to Public: The licensee must make available for public inspection upon request licenses, license record information, and inspection reports. This information may be displayed on the licensed premises

18-004.09 Accreditation or Certification Deemed Compliance

18-004.09A Accreditation: The Department ~~must~~ may deem an applicants or licensees in compliance with 175 NAC 18-006 based on its accreditation as a substance abuse treatment center by the:

1. Joint Commission on Accreditation of Healthcare Organizations;

2. Commission on Accreditation of Rehabilitation Facilities; or
  3. Council on Accreditation for Children and Family Services.
- 18-004.09A1 ~~The~~ An applicant or licensee must request the Department to deem its facility in compliance with 175 NAC 18-006 based upon its accreditation. The request must be:

1. Made in writing;
2. Submitted within 30 days of receipt of a report granting accreditation; and
3. Accompanied by a copy of the accreditation report.

18-004.09BA2 Upon receipt of the request, the Department ~~must~~ will deem the facility in compliance with 175 NAC 18-006 and ~~must~~ will provide written notification of its decision to the facility within 10 working days of the receipt of the request.

18-004.09A3 The Department will exclude a facility that has been deemed in compliance with 175 NAC 18-006 from the random selection of up to 25% of facilities for compliance inspections under 175 NAC 18-005.04A. The facility may be selected for a compliance inspection under 175 NAC 18-005.04B.

18-004.09CA4 To maintain deemed compliance, the licensee must maintain the accreditation on which its license was issued. If the accreditation has been sanctioned, modified, terminated or withdrawn, the licensee must notify the Department within 15 days of receipt of notification of the action. ~~After giving the notice notifying the Department,~~ the facility may continue to operate unless the Department determines that the facility no longer meets the requirements for licensure under the Health Care Facility Licensure Act. If the Department determines the facility no longer qualifies for deemed compliance, the facility is subject to inspections under 175 NAC 18-005.

18-004.09B Food Code: The Department will deem an applicant or licensee to be in compliance with the food service physical environment and equipment portions of the Food Code when:

1. The facility is located in a jurisdiction where there is a local health authority that inspects the facility's on-site food service using the Food Code;
2. The facility has been issued a certificate or similar document by the local health authority as evidence of compliance with the Food Code; and
3. The facility has provided the Department with a copy of the certificate or other similar document issued by the local health authority. The document must have been issued within 18 months of the date the Department conducts the licensure inspection.

18-004.09B1 The facility must maintain compliance with the Food Code as evidenced by the Food Code compliance certificate not having been modified or terminated by the issuing local health authority.

18-004.09B2 The facility must notify the Department when the local health authority modifies or terminates the Food Code compliance certificate. The notification must be sent to the Department in writing within 15 days after the facility receives notification from the local health authority of any change.

18-004.09B3 Dietary Services: The Department will inspect dietary services provided by the facility to determine compliance with 175 NAC 18-006.15 to ensure that clients' dietary needs are being met.

18-004.09B4 If the facility contracts with an entity to provide food service, the contractor must meet the requirements of the Food Code, and the facility must show proof of such approval to the Department.

18-004.10 Fees: The licensee must pay fees for licensure and services as set forth below:

1. Initial and Renewal Licensure Fees for Inpatient Facility:
  - a. 1 to 16 Beds \$~~250~~ 450
  - b. 17 to 50 Beds \$~~275~~ 500
  - c. 51 or more Beds \$~~300~~ 550
2. Initial and Renewal Licensure Fees for Outpatient Facility: \$~~200~~ 300
3. Initial and Renewal Licensure Fees for Facility with Inpatient and Outpatient Programs:
  - a. 1 to 16 Beds \$~~250~~ 450
  - b. 17 to 50 Beds \$~~275~~ 500
  - c. 51 or more Beds \$~~300~~ 550
4. Duplicate license: \$10
5. Refunds for denied applications:
  - a. If the Department did not perform an inspection, it ~~must~~ will refund the license fee except for an administrative fee of \$25.
  - b. If the Department performed an inspection, the fee is not refunded.

18-005 INSPECTIONS: To determine compliance with operational, care, treatment, and physical plant standards, the Department inspects the substance abuse treatment center facility prior to and following licensure. The Department determines compliance through on-site inspections, review of schematic and construction plans, and reports of qualified inspectors. Re-inspections are conducted by on-site inspection or review of documentation requested by the Department.

18-005.01 Initial Inspection: The ~~D~~e~~p~~artment ~~must~~ will conduct an announced initial on-site inspection to determine compliance with 175 NAC 18-006 and 18-007. ~~This~~ The

inspection ~~must be conducted~~ will occur within 30 working days of receipt of a completed application for an initial license, or later ~~when~~ if requested by the applicant. The Department ~~must~~ will provide a copy of the inspection report to the facility within ten working days after completion of an inspection.

#### 18-005.02 Results of Initial Inspection

18-005.02A When the Department finds that the applicant fully complies with the requirements of 175 NAC 18-006 and 18-007, the Department ~~must~~ will issue a license.

18-005.02B When the Department finds that the applicant has complied substantially but has failed to comply fully with the requirements of 175 NAC 18-006 and 18-007 and the failure(s) would not pose an imminent danger of death or physical harm to the client, the Department may issue a provisional license. The provisional license:

1. Is valid for a period of up to one year;
2. Is not renewable; and
3. May be converted to a regular license upon a showing that the facility fully complies with the requirements for licensure.

18-005.02C When the Department finds that the applicant has one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse relationship to the health, safety, or security of the clients residing in the facility, the Department may send a letter to the facility requesting a statement of compliance. The letter ~~must~~ will include:

4. A description of each violation;
5. A request that the applicant submit a statement of compliance within ten working days; and
6. A notice that the Department may take further steps if the statement of compliance is not submitted.

18-005.02D The Statement of Compliance: The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time necessary to correct each violation. Based on the statement of compliance, the Department ~~must~~ will take one of the following actions:

1. If the ~~applicant~~ facility submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department ~~must~~ will issue a regular license or a provisional license.
2. If the ~~applicant~~ facility fails to submit and implement a statement of compliance that indicates a good faith effort to correct the violations, the

Department may deny the license.

18-005.02E When the Department finds that the applicant fails to meet the requirements of 175 NAC 18-006 and 18-007 and the failure(s) would create an imminent danger of death or serious physical harm, the Department ~~must~~ will deny the license.

18-005.023 Physical Plant Inspections: The Department ~~must~~ will conduct inspections for inpatient facilities for conformity with approved construction plans and physical plant standards of 175 NAC 18-007 at existing facilities, new facilities, or new construction prior to use or occupancy.

18-005.023A On-site progress inspections of the physical plant by qualified inspectors for conformance to construction documents and code requirements may occur at any time after construction has begun and prior to the concealment of essential components.

18-005.023B The Department ~~must~~ will conduct an on-site final inspection of the physical plant prior to use or occupancy of inpatient facilities. In lieu of an on-site final inspection by the Department, the Department may accept a certification from a licensed architect or engineer that the physical plant meets the requirements of the Health Care Facility Licensure Act and 175 NAC 18, and that the facility is complete and ready for occupancy in accordance with Department approved plans. The architect or engineer may construct a certification form or obtain a certification form from the Department. ~~The process for the certification is as follows:~~

18-005.023B1 The certification must state:

1. Name of the architect or engineer;
2. Name of the professional entity with which he or she is affiliated, if any;
3. Address and telephone number;
4. Type of license held, the state in which it is held, and the license number;
5. Name and location of the facility;
6. Name(s) of the owner(s) of the facility;
7. New construction had the building structure and plumbing rough-in inspected by a qualified inspector prior to the time these would be concealed and preclude observation;
8. All new construction, care and treatment room sizes, bedroom sizes, hardware, building systems, and other safety equipment as appropriate are completed in accordance with approved construction plans; and
9. The facility is furnished, cleaned, and equipped for the care and treatment to be performed in compliance with 175 NAC 18-007,

and approved for use and occupancy.

18-005.03B2 The certification must have attached to it:

1. Copies of documents from other authorities having jurisdiction verifying the facility meets the codes specified in 175 NAC 18-007.03A, and is approved for use and occupancy;
2. Copies of certifications and documentation from equipment and building system installers ~~stating with the sufficiency as allows for Departmental verification~~ verifying that all equipment and systems installed are operating and approved for use and occupancy; and
3. Schematic floor plans documenting actual room numbers and titles, bed locations for inpatient facilities, and capacity, and life safety information.

18-005.04 Timing of Compliance Inspection: The Department may, following the initial licensure of a substance abuse treatment center, conduct an unannounced on-site inspection at any time as it deems necessary to determine compliance with 175 NAC 18-006 and 18-007. The inspection may occur based on random selection or focused selection.

18-005.04A Random Selection: Each year the Department may ~~conduct an inspection~~ inspect of up to 25% of the substance abuse treatment centers based on a random selection of licensed substance abuse treatment centers.

18-005.04B Focused Selection: The Department may conduct an inspection of a substance abuse treatment center when the Department is informed of one or more of the following:

1. An occurrence resulting in client death or serious physical harm to clients;
2. An occurrence resulting in imminent danger to or the possibility of death or serious physical harm to clients;
3. An accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of clients;
4. The passage of five years without an inspection;
5. A complaint alleging violation of the Health Care Facility Licensure Act or 175 NAC 18 ;
6. Complaints that, because of their number, frequency, and type, raise concerns about the maintenance, operation, ~~and~~ or management of the substance abuse treatment center;
7. Financial instability of the licensee or of the licensee's parent company;
8. Outbreaks or recurrent incidents of physical health problems such as dehydration, pressure sores, or other illnesses;

9. Change of services, management, or ownership;
10. Change of the status of the accreditation on which licensure is based as provided in 175 NAC 18-004.09; and
11. Any other event that raises concerns about the maintenance, operation, and management of the substance abuse treatment center.

#### 18-005.05 Results of Compliance Inspections

18-005.05A When the inspection reveals violations that create imminent danger of death or serious physical harm or have direct or immediate adverse ~~relationship to effect on~~ the health, safety, or security of the persons residing in the facility, the Department ~~must~~ will review the inspection findings within 20 working days after the inspection. If the evidence from the inspection supports the findings, the Department ~~must~~ will impose discipline in accordance with 175 NAC 18-008.03.

18-005.05B When the inspection reveals one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse ~~relationship to effect on~~ the health, safety, or security of the persons residing in the facility, the Department may request a statement of compliance from the facility. The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the period of time estimated to ~~be necessary to~~ correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the facility submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the ~~D~~department ~~must~~ will not take any disciplinary action against the facility license;
2. If the facility fails to submit and implement a statement of compliance, the Department ~~shall~~ will initiate disciplinary action against the facility license. ~~Such action shall will be~~ in accordance with 175 NAC 18-008; or
3. In making a determination to accept a statement of compliance or initiate or not initiate disciplinary action against the license, the Department may conduct a re-inspection within 90 days of the first inspection, or sooner as requested by the licensee.

#### 18-005.06 Re-inspections

18-005.06A The Department may conduct re-inspections to determine if a facility substance abuse treatment center fully complies with the requirements of 175 NAC 18-006 and 18-007. ~~The re-inspection will occur before a disciplinary action is modified or terminated, or a provisional license is converted to a regular license. The re-inspection may occur after the Department:~~

1. ~~May occur after having issued a provisional license; having received a~~

- ~~statement of compliance; or having imposed disciplinary action; and~~  
2. ~~Must Will occur within 90 days of the first inspection, or sooner as requested by the licensee.~~

Re-inspection may consist of an on-site inspection or a review of documentation requested by the Department. Re-inspection occurs:

1. After the Department has issued a provisional license;
2. Before a provisional license is converted to a regular license;
3. After the Department has imposed disciplinary action;
4. Before a disciplinary action is modified or terminated; or
5. After the Department receives a statement of compliance for cited violations.

18-005.06B Following a re-inspection, the Department may:

1. Convert a provisional license to a regular license;
2. Affirm that the provisional license is to remain effective; ~~or~~
3. Modify a disciplinary action in accordance with 175 NAC 18-008.02- ; or
4. Grant full reinstatement of the license.

~~18-005.06C To modify a disciplinary action, the Department must will follow the procedures in 175 NAC 18-008.02-~~

18-006 STANDARDS OF OPERATION, CARE AND TREATMENT: This section applies to both inpatient and outpatient facilities, except where specified otherwise.

18-006.01 Licensee: The licensee must determine, implement, and monitor policies to assure that the facility is administered and managed appropriately. The licensee's responsibilities include:

1. Monitoring policies to assure appropriate administration and management of the facility;
2. Ensuring the facility's compliance with all applicable state statutes and relevant rules and regulations;
3. Ensuring the quality of all services, care and treatment provided to clients whether those services, care or treatment are furnished by facility staff or through contract with the facility;
4. Designating an administrator who is responsible for the day to day management of the facility;
5. Defining the duties and responsibilities of the administrator in writing;
6. Notifying the Department in writing within five working days when a vacancy in the administrator position occurs, including who will be responsible for the position until another administrator is appointed;
7. Notifying the Department in writing within five working days when the

administrator vacancy is filled indicating effective date and name of person appointed administrator;

8. Ensuring clients are provided with a stable and supportive environment, through respect for the rights of clients and responsiveness to client needs;
5. Receiving periodic reports and recommendations regarding the quality assurance/performance improvement (QA/PI) program;
9. Implementing programs and policies to maintain and improve the quality of client care and treatment based on QA/PI reports ; and
10. Ensuring that staff levels are sufficient to meet the clients needs.

18-006.02 Administration: The administrator is responsible for planning, organizing, and directing the day to day operation of the substance abuse treatment center. The administrator must report and be directly responsible to the licensee in all matters related to the maintenance, operation, and management of the facility. The administrator's responsibilities include:

1. Being on the premises a sufficient number of hours to permit adequate attention to the management of the substance abuse treatment center;
2. Ensuring that the substance abuse treatment center protects and promotes the client's health, safety, and well-being;
3. Maintaining staff appropriate to meet clients' needs;
4. Designating a substitute, who is responsible and accountable for management of the facility, to act in the absence of the administrator.
5. Developing procedures which require the reporting of any evidence of abuse, neglect, or exploitation of any client served by the facility in accordance with Neb. Rev. Stat. Section § 28-372 of the Adult Protective Services Act or in the case of a child, in accordance with Neb. Rev. Stat. Section § 28-711; and
6. Ensuring an investigation is completed on suspected abuse, neglect or exploitation and that steps are taken to prevent abuse and neglect and protect clients.

18-006.03 Staff Requirements: The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the clients needs. The facility must provide care and treatment to clients in a safe and timely manner.

18-006.03A Facility Staffing: The facility must at all times maintain enough staff to provide adequate care to meet the client population's requirements for care and treatment, including needs for therapeutic activities, supervision, support, health, and safety.

18-006.03B Employment Eligibility: Each substance abuse treatment center must ensure and maintain evidence of the following:

18-006.03B1 Staff Credentialing: The facility must ensure that:

1. Any staff person providing a service for which a license, certification, registration, or credential is required holds the license, certification, registration, or credential in accordance with applicable state laws;
1. The staff have the appropriate license, certification, registration, or credential prior to providing a service to clients; and
2. It maintains evidence of the staff having the appropriate license, certification, registration, or credential.

18-006.03B2 Criminal Background and Registry Checks: The facility must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed of the direct care staff member.

18-006.03B2a Criminal Background Checks: The facility must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information.

18-006.03B2b Registry Checks: The facility must check for adverse findings on the following registries:

1. Nurse Aide Registry;
2. Adult Protective Services Central Registry;
3. Central Registry of Child Protection Cases; and
4. Nebraska State Patrol Sex Offender Registry.

18-006.03B2c The facility must:

1. Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
2. Decide whether employment can begin prior to receiving the criminal background information; and
3. Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must include how that decision was made and how the facility plans to reduce risk to clients and provide protection, as necessary.

18.006.03B2d The facility must not employ a person with adverse findings on the Nurse Aide Registry regarding client abuse, neglect, or misappropriation of clients property.

18-006.03C Health Status of Facility Staff: The facility must establish and

implement policies and procedures regarding the health status of staff who provide direct care or treatment to clients to prevent the transmission of infectious disease. The facility:

1. Must complete a health screening for each staff person prior to assuming job responsibilities; and
2. May, in its discretion, based on the health screening require a staff person to have a physical examination.

18-006.03D Staff Training: The facility must provide staff with sufficient training to meet client needs for care and treatment.

18-006.03D1 Initial Orientation: The facility must provide staff with orientation prior to the staff person having direct responsibility for care and treatment of clients. The training must include:

1. Client rights;
2. Job responsibilities relating to care and treatment programs and client interactions;
3. Emergency procedures including information regarding availability and notification;
4. Information on any physical and mental special needs of the clients of the facility; and
5. Information on abuse, neglect, and misappropriation of money or property of a client and the reporting procedures.

18-006.03D2 Ongoing Training: The facility must provide each staff person ongoing training in topics appropriate to the staff person's job duties, including meeting the needs, preferences, and protecting the rights of the clients in the facility.

18-006.03E Staff Records: The facility must maintain written documentation:

1. To support facility decisions regarding staffing of the facility, staff credentials, and staff health status; and
2. Regarding staff orientation and ongoing training. The record of such training must include topic of training, name of staff, date and length of training and name of person providing the training.

#### 18-006.04 Client Rights

18-006.04A The facility must:

1. Ensure that the client is aware of the rights listed in 175 NAC 18-006.04B and received a copy upon admission and for the duration of the

- stay;
2. Operate so as to afford the client the opportunity to exercise these rights; and
  3. Protect and promote these rights.

18-006.04B In both inpatient and outpatient facilities, the client must have the right:

1. To be informed in advance about care and treatment and of any changes in care and treatment that may affect the client's well-being;
2. To self-direct activities and participate in decisions regarding care and treatment;
3. To confidentiality of all records, communications, and personal information;
4. To voice complaints and file grievances without discrimination or reprisal and to have those complaints and grievances addressed;
5. To examine the results of the most recent survey of the facility conducted by representatives of the Department;
6. To be free of restraints except when provided as in 175 NAC 18-006.14;
7. To be free of seclusion in a locked room, except as provided in 175 NAC 18-006.14 and except in cases of civil protective custody;
8. To be free of physical punishment;
9. To exercise his or her rights as a client of the facility and as a citizen of the United States;
10. To be free from arbitrary transfer or discharge;
11. To be free from involuntary treatment, unless the client has been involuntarily committed by appropriate court order and except in cases of civil protective custody;
12. To be free from abuse and neglect and misappropriation of their money and personal property; and
13. To be informed prior to or at the time of admission and during stay at the facility of charges for care, treatment, or related charges

18-006.04C Except for a client in an emergency detoxification program, a client in an inpatient facility must have these additional rights:

1. To privacy in written communication including sending and receiving mail consistent with individualized service plans;
2. To receive visitors as long as this does not infringe on the rights and safety of other clients and is consistent with individualized service plans;
3. To have access to a telephone where calls can be made without being overheard when consistent with individualized service plans;
4. To retain and use personal possessions, including furnishings and clothing as space permits, unless to do so would infringe upon the rights and safety of other clients.

18-006.05 Complaints/Grievances: The facility must establish and implement written procedures for addressing complaints and grievances from clients, staff, and others.

18-006.05A The facility must have a procedure regarding submission of complaints and grievances available to clients, staff, and others.

18-006.05B The facility must document efforts to address complaints and grievances received in a timely manner.

18-006.05C The facility must ensure that the telephone number and address of the Department is readily available to clients, staff, and others who wish to lodge complaints and grievances.

18-006.06 Facility House Rules: Except for emergency detoxification programs, an inpatient facility must develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, night-time quiet hours, guest policies and smoking. The facility must provide the clients an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective. The house rules must be:

1. Consistent with client rights;
2. Posted in an area readily accessible to clients; and
3. Reviewed and updated, as necessary.

18-006.07 Quality Assurance/Performance Improvement: The facility must conduct an ongoing comprehensive, integrated assessment of the quality and appropriateness of care and treatment provided. The facility must use the findings to correct identified problems and to revise facility policies, if necessary.

18-006.07A Those responsible for the quality assurance/performance improvement program must:

1. Implement and report on activities and mechanisms for monitoring the quality of client care and treatment;
2. Identify and resolve problems;
3. Make suggestions for improving care and treatment;
4. Maintain documentation of quality assurance/performance improvement activities;
5. Report results of the quality assurance/performance improvement activities to the licensee ; and
6. Provide for client participation.

18-006.08 Care and Treatment Requirements: The facility must ensure that all clients receive care and treatment in accordance with the facility's program and that the facility meets each client's identified needs.

18-006.08A Program Description: The facility must have a written program description that is available to staff, clients, and members of the public that explains the range of care and treatment activities provided. The description must include the following:

1. The mission statement, program philosophy, goals and objectives developed by the governing body;
2. The levels of care and/or treatment provided, including inpatient and
3. outpatient components, when applicable;
4. The client population served, including age groups and other relevant characteristics;
5. The hours and days the facility provides care and/or treatment;
6. Staff composition and staffing qualification requirements to sufficiently provide care and/or treatment to meet facility goals and objectives;
7. Staff job responsibilities for meeting care and/or treatment facility goals and objectives;
8. The admission and discharge processes, including criteria for admission and discharge;
9. System of referral for alternative services for those individuals who do not meet admission criteria;
10. The client admission and ongoing assessment and evaluation procedures used by the program, including individualized service plan process;
11. Plan for providing emergency care and treatment, including use of facility approved interventions to be used by staff in an emergency situation;
12. Quality assurance/improvement process, including who will be responsible for the program and how results will be utilized to improve care and/or treatment;
13. System governing the reporting, investigation, and resolution of allegations of abuse, neglect and exploitation; and
14. Clients rights and the system for ensuring client rights will be protected and promoted.

18-006.08B Policies and Procedures: The facility must establish policies and procedures to implement the facility's program as described in 175 NAC 18-006.08A.

18-006.08C Annual Review: The facility must review all elements of the written program description as listed in 175 NAC 18-006.08A at least annually. The facility must document the results of the annual review. Relevant findings from the facility's quality assurance/performance improvement program for the purpose of improving client treatment and resolving problems in client care and treatment must be included in the review process. The licensee must revise the program description,

as necessary, to reflect accurately care and treatment the facility is providing.

18-006.09 Admission of Clients: The facility must ensure that its admission practices meet the client's identified needs and conform with the facility's program description.

18-006.09A Admission Criteria: The facility must have written criteria for admission that includes each level of care and the components of care and treatment provided by the facility. The written criteria must include how eligibility for admission is determined based on:

1. Identification of client need for care and treatment, including the severity of the presenting problem;
2. Rationale for determining appropriate level of care and treatment; and
3. Need for supervision and other issues related to providing care and treatment.

18-006.09B Admission Decisions: The facility must ensure that the decision to admit a client is based upon the facility's admission criteria and the facility's capability to meet the identified needs of the client.

18-006.09C Admission Assessment: The facility must develop an assessment of the client to identify the effects of substance abuse on the client's life, except for a client in an emergency detoxification program.

18-006.09C1 The assessment must include:

1. An evaluation of the client which satisfies the facility's admission criteria;
2. The type and extent of any clinical examinations that were determined necessary; and
3. Information on associated medical and psychological issues;

18-006.09C2 The facility must complete the assessment process for each client within the following timelines:

1. Inpatient facility: within 15 days of the client's admission;
2. Outpatient facility: by client's fourth outpatient session.

18-006.09C3 The facility must evaluate a client in an emergency detoxification program as to his or her immediate need and implement the facility's procedures for its emergency detoxification program, in compliance with 175 NAC 18-006.

18-006.10 Individualized Service Plan (ISP): Each client, except for a client admitted to an emergency detoxification program, must have an individualized service plan based on

the assessment of the client's needs. The facility must assign overall responsibility for development and implementation of the ISP to a qualified staff person in accordance with facility's program description. The facility must base the intensity of care and treatment provided on the client's need. The facility must:

1. Begin to develop the initial ISP of care upon admission;
2. Implement the ISP as soon as it has been established; and
3. Complete development of the ISP when the assessment process is finished.

18-006.10A The individualized service plan must:

1. Specify the care and treatment necessary to meet the client's assessed needs;
2. Include referrals for needed services that the facility does not provide;
3. Contain specific goals and the measurement the client will use to achieve reduction or elimination of substance abuse;
4. Specify the extent and frequency of care and treatment;
5. Specify criteria to be met for termination of care and treatment;
6. Define therapeutic activity;
7. Document client participation in the development of the ISP by client signature and date(s) of participation or justification for the lack of the client's signature; and
8. Estimate the length of stay and the plan for discharge.

18-006.10B Evaluation of Care and Treatment: The facility must periodically evaluate the client's ISP as indicated by the client's need and response to care and treatment. The maximum intervals between evaluations of the ISP are:

1. Every 30 days for intensive treatment which consists of any level of inpatient treatment or outpatient treatment involving ten or more hours of therapeutic activity per week. This does not include client participation in self-help groups.
2. Every 90 days for less intensive treatment which consists of less than ten hours of therapeutic activity per week either at an inpatient or outpatient facility. This does not include client participation in self-help groups.

18-006.11 Care and Treatment Provided: The facility must provide care and/or treatment to meet client needs on an ongoing basis in a manner that respects clients' rights, promotes recovery, and affords personal dignity:

18-006.11A An inpatient facility must, at a minimum, provide the following:

1. Therapeutic activities as described in the facility program description;
2. Adequate food and shelter;

3. Medical and clinical oversight of client needs as identified in the client assessment;
4. Assistance and support, as necessary, to enable the client to meet personal hygiene and clothing needs;
1. Assistance and support, as necessary, to enable the client to meet laundry needs, which may include access to washers and dryers so that clients can do their own personal laundry if included in the client's ISP;
5. Assistance and support, as necessary, to enable the client to meet his/~~or~~ her housekeeping needs including access to materials needed to perform his/~~or~~ her own housekeeping duties as determined by the client's ISP; and
6. Health-related care and treatment, as necessary.

18-006.11B An inpatient facility may provide emergency detoxification programs.

18-006.11B1 The types of emergency detoxification are:

1. Civil protective custody which:
  - a. Is involuntary;
  - b. Is initiated by a law enforcement officer; and
  - c. Has a maximum duration of 24 hours.
2. Social setting emergency detoxification which:
  - a. Is voluntary;
  - b. Is initiated by the client or designee; and
  - c. Has a maximum duration of five days.

18-006.11B2 Beds in an emergency detoxification program must be considered inpatient beds for calculation of licensure fees.

18-006.11B3 A facility providing one or both types of emergency detoxification programs must have policies and procedures for the assessment, observation, and routine monitoring of clients. A licensed physician must document the appropriateness of the facility's policies and procedures. The policies and procedures must include:

1. Recording the client's identifying information, if available;
2. Determining the client's level of consciousness;
3. Monitoring vital signs including temperature, respirations, pulse, and blood pressure;
4. Observing and monitoring at specific time intervals;
5. Determining the onset of acute withdrawal or psychiatric emergency according to methods established by the facility;
6. Assessing the need for medical treatment and initiating appropriate, established procedures for referral to a medical facility; and

7. Managing observation and monitoring according to methods established by the facility when the client is not cooperative.

18-006.11C An outpatient facility must at a minimum, provide the following:

1. Therapeutic activities as described in the facility program description; and
2. Medical and clinical oversight of client needs as identified in the client assessment;.

18-006.11D An outpatient facility must not provide emergency detoxification programs.

18-006.12 Discharge/Transfer Requirements: The facility must establish discharge criteria and use those criteria in developing an appropriate plan for discharge jointly with the client. A discharge plan is not required for clients in an emergency detoxification program. The discharge plan must include:

1. A relapse prevention plan, which includes triggers and interventions for the client to activate;
2. The client's plan for follow up, continuing care, or other post care and treatment services;
3. Documentation of referrals made for the client by the facility;
4. The client's plan to further his/her recovery;
5. The client's signature and the date; and
6. A treatment summary that will be completed no later than 30 days after the client's discharge. The summary must include a description of the client's progress under his/her ISP, the reason for discharge, and any recommendations to the client.

18-006.13 Health Management: The facility must offer medical attention to the client when needed. Arrangements for health services must be made with the consent of the client and/or designee.

18-006.13A Emergency Medical Services: The facility must have a plan delineating the manner in which medical emergency services is accessed to ensure timely response to emergency situations.

18-006.13B Health Screenings: The facility must ensure that each client has access to a qualified health care professional who is responsible for monitoring his/her health care. Health screenings must be done in accordance with the recommendations of a qualified health care professional.

18-006.13C Supervision of Nutrition: The facility must:

1. Monitor clients whose assessment indicates potential nutritional problems; and
2. Provide care and treatment to meet the identified nutritional needs.

18-006.13D Administration or Provision of Medications: Each facility must establish and implement policies and procedures to ensure that clients receive medications only as legally prescribed by a medical practitioner in accordance with the five rights and with prevailing professional standards.

18-006.13D1 Methods of Administration of Medication: When the facility is responsible for the administration of medication, it must be accomplished by the following methods:

18-006.13D1a Self-administration of Medications: Clients may be allowed to self-administer medications, with or without visual supervision, when the facility determines that the client is competent and capable of doing so and has the capacity to make an informed decision about taking medications in a safe manner. The facility must develop and implement policies to address client self-administration of medication, including:

1. Storage and handling of medications;
2. Inclusion of the determination that the client may self-administer medication in the client's individualized service plan; and
3. Monitoring the plan to assure continued safe administration of medications by the client.

18-006.13D1b Licensed Health Care Professional: When the facility uses a licensed health care professional for whom medication administration is included in the scope of practice, the facility must ensure the medications are properly administered in accordance with prevailing professional standards.

18-006.13D1c Provision of Medication by a Person other than a Licensed Health Care Professional: When the facility uses a person other than a licensed health care professional in the provision of medications, the facility must follow 172 NAC 95, Regulations Governing the Provision of Medications by Medication Aides and Other Unlicensed Persons and 172 NAC 96, Regulations Governing the Medication Aide Registry.

The facility must establish and implement policies and procedures:

1. To ensure that medication aides and other unlicensed

persons who provide medications are trained and have demonstrated the minimum competency standards specified in 172 NAC 96-004;

- a. To ensure that competency assessments and/or courses for medication aides and other unlicensed persons are provided in accordance with the provision of 172 NAC 96-005;
2. That specify how direction and monitoring will occur when the facility allows medication aides and other unlicensed persons to perform the routine/acceptable activities authorized by 172 NAC 95-005 and as follows:
  - a. Provide routine medication; and
  - b. Provision of medications by the following routes:
    - (1) Oral which includes any medication given by mouth including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;
    - (2) Inhalation which includes inhalers and nebulizers, including oxygen given by inhalation;
    - (3) Topical applications of sprays, creams, ointments, and lotions and transdermal patches; and
    - (4) Instillation by drops, ointments, and sprays into the eyes, ears, and nose.
4. That specify how direction and monitoring will occur when the facility allows medication aides and other unlicensed persons to perform the additional activities authorized by 172 NAC 95-009, which include but are not limited to:
  - a. provision of PRN medication;
  - b. provision of medications by additional routes including but not limited to gastrostomy tube, rectal, and vaginal; and/or
  - c. documented in client records.
5. That specify how competency determinations will be made for medication aides and other unlicensed persons to perform routine and additional activities pertaining to medication provision.
6. That specify how written direction will be provided for medication aides and other unlicensed persons to perform the additional activities authorized by 172 NAC 95-009.
7. That specify how records of medication provision by medication aides and other unlicensed persons will be recorded and maintained.
8. That specify how medication errors made by medication

aides and other unlicensed persons and adverse reactions to medications will be reported. The reporting must be:

- a. Made to the identified person responsible for direction and monitoring;
- b. Made immediately upon discovery; and
- c. Documented in client records.

18-006.13D2 When the facility is not responsible for medication administration or provision, the facility must maintain responsibility for overall supervision, safety, and welfare of the client.

18-006.13D3 Reporting of Medication Errors: The facility must have policies and procedures for reporting any errors in administration or provision of prescribed medications. Any variance from the five rights must be reported as an error:

1. To the client's licensed practitioner;
2. In a timely manner upon discovery; and
3. By written report.

18-006.13D4 Storage of Medication: All medications must be stored in locked areas and stored in accordance with the manufacturer's instructions for temperature, light, humidity, or other storage instructions.

18-006.13D5 Access to Medication: The facility must ensure that only authorized staff who are designated by the facility to be responsible for administration or provision of medications have access to medications.

18-006.13D6 Medication Record: The facility must maintain records sufficient detail to assure that:

1. Clients receive the medications authorized by a licensed health care professional; and
2. The facility is alerted to theft or loss of medication.

18-006.13D6a Each client must have an individual medication administration record which must include:

1. Identification of the client;
2. Name of the medication given;
3. Date, time, dosage and method of administration for each medication administered or provided; and the identification of the person who administered or provided the medication; and
4. Client's medication allergies and sensitivities, if any.

18-006.13D7 Disposal of Medications: Medications that are discontinued by the licensed health care professional and those medications which are beyond their expiration date, must be destroyed. The facility must develop and implement policies and procedures to identify who will be responsible for disposal of medications and how disposal will occur within the facility.

18-006.13D8 Medication Provision during Temporary Absences: When a client is temporarily absent from the facility, the facility must put medication scheduled to be taken by the client in a container identified for the client.

~~18-006.14 Use of Restraints and Seclusion:~~ The substance abuse treatment center must not use restraints and/or seclusion except:

- ~~1. As provided in 175 NAC 18-006.14A to C2.~~
- ~~2. When a client is placed at a substance abuse treatment center under civil protective custody in which case restraint may be used only to the extent~~  
~~— necessary to protect the client and others from harm, in accordance with Neb. Rev. Stat. section 53-1,121. The facility must comply with Building Code and Life Safety Code requirements for locked or secured environments.~~

Restraint and/or seclusion includes the following interventions:

- ~~1. Seclusion;~~
- ~~2. Mechanical restraint;~~
- ~~3. Chemical restraint;~~
- ~~4. Manual restraint; and~~
- ~~5. Time-out.~~

~~18-006.14A Secured Environment Facilities:~~ A substance abuse treatment center that provides a secured and protective environment by restricting a client's exit from the facility or its grounds through the use of approved locking devices on exit doors or other closures must be accredited by an approved qualifying organization. The approved qualifying organizations are

- ~~1. Joint Commission on Accreditation of Healthcare Organizations;~~
- ~~2. Commission on Accreditation of Rehabilitation Facilities; and~~
- ~~3. Council on Accreditation for Children and Family Services.~~

The facility must ensure compliance with the approved qualifying organization's requirements, Building Code requirements and Life Safety Code requirements regarding secured environments.

~~18-006.14B Use of Restraints and Seclusion in Accredited Facilities:~~ A substance abuse

~~treatment center that is accredited by an approved qualifying organization may use restraint and seclusion methods as part of a client's treatment plan. The facility must comply with approved qualifying organization's requirements for initiation and continued use of restraint and seclusion.~~

~~18-006.14C Use of Restraints and Seclusion in Non-accredited Facilities: A non-accredited substance abuse treatment center is prohibited from using mechanical and chemical restraints and seclusion. The facility must establish alternative and less restrictive methods for staff to use in the place of restraints and seclusion to deal with client behaviors.~~

~~18-006.14C1 A non-accredited substance abuse treatment center may use manual restraint and/or time out as therapeutic techniques only after it has:~~

- ~~1. Written policies and procedures for the use of manual restraint and time out;~~
- ~~2. Documented physician approval of the methods used by the facility;~~
- ~~3. Trained all staff who might have the occasion to use manual restraints and/or time-out in the appropriate methods to use in order to protect client safety and rights; and~~
- ~~4. Developed a system to review each use of manual restraint or time-out. The facility must ensure the review process includes the following requirements:~~
  - ~~a. That each use of manual restraint or time-out be reported to the administrator for review of compliance with facility procedures; and~~
  - ~~b. That documentation of each use of manual restraint or time-out include a description of the incident and identification of staff involved.~~

~~18-006.14C2 A non-accredited substance abuse treatment center may use manual restraint and/or time out as therapeutic techniques only in the following circumstances:~~

- ~~1. An emergency situation where the safety of the client or others is threatened;~~
- ~~2. The implementation and failure of other less restrictive behavior interventions; and~~
- ~~3. Use of manual restraint and/or time out only by staff who are trained as described in 175 NAC 18-006.14C1, item 3.~~

18-006.14 Restrictions on Access and Movement: The substance abuse treatment center may utilize restraints, seclusion, or time out or a secured environment as provided in 175

NAC 18-006.14.

18-006.14A Use of Restraints and Seclusion in Accredited/Certified Facilities: A substance abuse treatment center that is currently accredited or certified by one of the following organizations may utilize restraints, seclusion, or timeout in accordance with those requirements:

1. Joint Commission on Accreditation of Health Care Organizations;
2. Commission on Accreditation of Rehabilitation Facilities;
3. Council on Accreditation for Children and Family Services; or
4. Psychiatric Residential Treatment Facility at 42 CFR Part 483 Subpart G 483.350-483.376.

The facility must ensure compliance with the approved qualifying organization's requirements for restraint or seclusion.

18-006.14B Use of Restraints and Seclusion in Non Accredited/Certified Facilities: The non-accredited or non-certified facility must only utilize restraints, seclusion, or timeout as provided in 175 NAC 18-006.14B. Restraint or seclusion must not be used:

1. As a convenience for staff or as a means of obviating staff shortage or insufficiently trained staff;
2. As a substitute for care and/or treatment;
3. As a means of coercion, punishment, discipline, or retaliation; or
4. Simultaneously.

18-006.14B1 Restraint or seclusion must:

1. Only be used as an immediate response to an emergency safety situation which is a client behavior that places the client or others at serious threat of violence or injury if no such intervention occurs;
2. Only be used when other less restrictive measures have been attempted and found to be ineffective to protect the client or others;
3. Be used in a manner that is safe and protects the client's rights;
4. Be appropriate to the severity of the behavior;
5. Be appropriate to the client's age, size, gender, physical, medical, and psychiatric condition, and personal history (including any history of physical or sexual abuse);
6. Be used by staff who are trained and competent in applying and monitoring the use of the restraint and seclusion;
7. Except for manual restraint, be authorized or ordered by a physician or other person whose scope of practice authorizes the

use of the restraint or seclusion. The authorization or order must:

- a. Be for each emergency safety situation and not a standing order or as needed basis;
  - b. Authorize the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation;
  - c. Not authorize usage for longer than four consecutive hours; and
  - d. Contain the following information:
    - (1) Precipitating event, circumstances, and behaviors giving rise to the need for restraint or seclusion;
    - (2) Name and title of person communicating the events, circumstances and behaviors;
    - (3) Type of restraint or seclusion;
    - (4) Length of time for the authorized use;
    - (5) Name of physician or other person authorized by state statute or scope of practice to order restraint or seclusion; and
    - (6) Date and time of the order.
8. Have the methods of manual restraint used by the facility, approved by a physician, with documentation of the approval maintained by the facility;
  9. Be a part of the client's individualized service plan; and
  10. Be discontinued as soon as the threat of harm to the client or others has subsided or has been minimized;

18-006.14B2 Restraint, Seclusion, or Time Out Policies and Procedures: Facilities that utilize restraint, seclusion, or time out must develop and implement policies and procedures that require the employment of other less restrictive interventions prior to the use of restraints, seclusion or time out. The policies and procedures must include but are not limited to the following:

1. Delineate the types of restraints, seclusion, or time out that can be used;
2. Specify the types of less restrictive methods and modalities staff are to use prior to the application of restraints, seclusion, or time out to manage client behaviors;
3. Identify the emergency situations or circumstances under which restraints, seclusion, or time out can be used;
4. Establish written protocols for utilizing each type of restraint, seclusion, or timeout. The protocol must include:
  - a. The process that staff must undertake to initiate the use of restraints, seclusion, or time out;
  - b. The allowable timeframe for use of restraints, seclusion, or time out or when such usage must be discontinued;

- c. The requirements for reviewing each incident involving the use of restraints, seclusion, and time out to determine whether policies, procedures, and protocols were followed and whether corrective measures are warranted. The facility must document any corrective measures instituted to facilitate the appropriate use of restraints, seclusion, or time out;
- d. The reporting requirements used to notify the facility's administration and the client's family or representative of the use of restraints, seclusion, or time out. Notification must be done within 24 hours of the use of restraints, seclusion, or time out and must be documented in the client's record;
5. Provide notification to the client or authorized representative of the facility's policy regarding the use of restraint or seclusion during an emergency safety situation that may occur while the client is in the facility. The notification must:
  - a. Be communicated to the client or authorized representative in a manner that they understand the information;
  - b. Be prior to or at the time of admission; and
  - c. Include written acknowledgement of the communication maintained in the client's record.

18-006.14B3 Staff Training in Emergency Interventions: The facility must ensure that all staff who are responsible for either authorizing the use of or applying restraints, seclusion, or time out are provided initial and ongoing (competency based) training. The initial training and demonstration of competency must occur prior to the staff's participation in the use of any such interventions. The training provided must be documented and include the following:

1. Techniques to identify staff and client behaviors, events, and environmental factors that may trigger safety situations;
2. Use of nonphysical intervention techniques to prevent an emergency safety situation;
3. Techniques that allow for the safe and appropriate use of restraints, seclusion, and time out;
4. Recognition and appropriate response to signs and symptoms that are indicative of physical distress in clients;
5. Less restrictive methods to be utilized prior to the use of restraints, seclusion, or timeout;
6. Emergency interventions to respond to a medical emergency that may occur during the course of the use of restraints, seclusion, or time out, including CPR, Heimlech maneuver, etc.; and
7. Process for monitoring the client's physical and behavioral conditions while restraints, seclusion, or time out are in use and

after use.

18-006.14B4 Client Record: The facility must document the use of restraints, seclusion, or time out in the client record. The record must include the following information:

1. Date and time the emergency intervention began and ended;
2. Location of the emergency intervention;
3. Names of staff involved;
4. Precipitating event, circumstances, and behavior giving rise to the need for the intervention;
5. Identification of less restrictive methods attempted;
6. Identification of the specific type of emergency intervention;
7. Rationale for the emergency intervention;
8. Outcome of the use of the emergency intervention; and
9. Any injuries that occur as a result of the emergency intervention and medical treatment required.

18-006.14B5 Face-to-Face Assessment: A face-to-face assessment of the client's physical and emotional well being must be conducted within one hour of initiation of each use of restraint or seclusion.

18-006.14B5a The face-to-face assessment must be conducted by a physician or other person authorized by state statute or scope of practice to assess the physical and psychological well being of the client and who are trained in use of emergency safety interventions.

18-006.14B5b The face to face assessment must include:

1. The client's physical and psychological status;
2. Client behavior;
3. Appropriateness of the restraint or seclusion intervention; and
4. Complications resulting from the interventions including injuries of clients and staff and medical or follow-up care resulting from the restraint or seclusion.

18-006.14B5c The face-to-face assessments must be documented including date, time, and results of the assessment and the name of the person completing the assessment.

18-006.14B6 Monitoring of Clients in Restraints or Seclusion: The facility must ensure continuous monitoring of each client during the use of restraint or seclusion. The monitoring must be:

1. Provided by staff specifically assigned responsibility to monitor the client and who is trained in the use of restraint and seclusion;
2. Provided by staff who are physically present so the staff person is able to hear and be heard by the client, and visually observe the client at all times; and
3. Documented in the client record, including the client behavior, physical and emotional status, staff actions, names of staff responsible for monitoring, and results of monitoring.

18-006.14C Seclusion Room: When a room is used for seclusion the facility must ensure the room:

1. Provides for staff to have full view of the client in all areas of the room and the client must be under direct constant visual supervision by staff;
2. Is free of potentially hazardous conditions such as sharp corners and objects, unprotected light fixtures, and electrical outlets;
3. Has appropriate temperature control, ventilation, and lighting;
4. Has access to bathroom facilities;
5. Has an identified plan for emergency exit;
6. Is not in the client's sleeping area; and
7. Has a way to assure that the door cannot be held closed by the client in the room which could deny staff immediate access to the room.

18-006.14D Secured Environment: A substance abuse treatment center may provide a secured and protective environment by restricting a client's egress from the facility, unit, or its grounds through the use of locking devices on exit doors and other closures.

18-006.14D1 The substance abuse treatment center may only use a secured environment for a client whose clinical and security needs require a such environment.

18-006.14D2 The client or authorized representative must be provided written notification of the locked status of the facility, unit, or its grounds prior to or at the time of admission. Written acknowledgement of receipt of the notification must be maintained in the client's record.

18-006.14D3 The substance abuse treatment center must have written approval of the locking devices used to secure the environment by the state fire marshal or designee prior to use.

18-006.14D4 The substance abuse treatment center must establish and implement written policies and procedures for utilization of a secured environment to ensure the safety and protection of client rights. The secured environment must not be used as a convenience for staff, due to shortage of

staff, or as a substitute for care and/or treatment. The policies and procedures must include:

1. Identification of the need level of the client to be served in the secured environment;
2. Identification of the types of locking devices;
3. Identification of the location of the locking devices;
4. How the locking devices will be unlocked during an emergency situation;
5. How staff will have readily accessible a means to unlock the devices;
6. How will clients, staff, and visitors enter and egress the facility, unit, or its grounds; and
7. Process for routine and preventative maintenance to ensure the locking devices are functioning properly.

18-006.15 Food Service: When the facility provides food service, it must ensure the food is of good quality, properly prepared, and served in sufficient quantities and frequency to meet the daily nutritional needs of each client. The facility must ensure that clients receive special diets when ordered by a licensed health care professional. Food must be prepared in a safe and sanitary manner.

18-006.15A Menus: The facility must ensure that:

1. Meals and snacks are appropriate to the clients needs and preferences. A sufficient variety of foods must be planned and served in adequate amounts for each client at each meal. Menus must be adjusted for seasonal changes;.
2. Written menus are based on the Food Guide Pyramid or equivalent and modified to accommodate special diets as needed by the client; and
3. Records of menus as served are maintained for at least 14 days.

18-006.16 Record Keeping Requirements: The facility must maintain complete and accurate records to document the operation of the facility and care and treatment of the clients.

18-006.16A Client Records: A record must be established for each client upon admission. Each record must contain sufficient information to clearly identify the client, to justify the care and treatment provided, and to document the results of care and treatment accurately.

18-006.16A1 Content: Each record must contain, when applicable, the following information:

8. Dates of admission and discharge;

9. Name of client;
10. Gender and date of birth;
11. Demographic information, including address and telephone number;
12. Physical description or client photo identification;
13. Admission assessment information and determination of eligibility for admission;
14. Health screening information;
15. Individualized service plans;
16. Physician orders;
17. Medications and any special diet;
18. Significant medical conditions;
19. Allergies;
20. Person to contact in an emergency, including telephone number;
21. Fee agreement;
22. Documentation of care and treatment provided, client's response to care and treatment, change in condition, and changes in care and treatment;
23. Discharge and transfer information;
24. Client rights; and
25. Referral information; and
26. Any unusual event or occurrences.

18-006.16B Client Record Organization: The facility must ensure that records are systematically organized to ensure permanency and completeness.

18-006.16B1 Record Entries: All record entries must be dated, legible, and ~~indelibly verified~~ indelible. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

18-006.16B2 Confidentiality: The facility must keep records confidential unless medically contraindicated. Records are subject to inspection by authorized representative of the Department.

18-006.16B3 Retention: Client records must be retained for a minimum of two years.

18-006.16B4 Access: Client information and/or records may be released only with the consent of the client or client's designee or as required by law. When a client is transferred to another facility or service, appropriate information must be sent to the receiving facility or service.

18-006.16B5 Administrative Changes: If a facility changes ownership or Administrator, all client records must remain in the facility. Prior to the dissolution of any facility, the administrator must notify the Department in

writing as to the location and storage of client records.

18-006.17 Infection Control: The facility must have a system for management of identified infections within the facility for clients and staff, which includes the use of standard precautions for prevention of transmission of infectious diseases among clients and/or staff.

18-006.18 Safety Plan: The facility must have a system to identify and prevent the occurrence of hazards to clients. Examples of hazards to be identified and prevented are: dangerous substances, sharp objects, unprotected electrical outlets, extreme water temperatures, and unsafe smoking practices.

18-006.19 Environmental Services: The facility must provide a safe, clean, and comfortable environment for clients which allows the client to use his/her personal belongings as much as possible. Every detached building on the same premises used for care and treatment must comply with these regulations.

18-006.19A Housekeeping and Maintenance: The facility must provide housekeeping and maintenance necessary to protect the health and safety of clients.

18-006.19A1 The facility's buildings and grounds must be kept clean, safe and in good repair.

18-006.19A2 The inpatient facility must take into account client habits and lifestyle preferences when housekeeping services are provided in the bedrooms/living area.

18-006.19A3 All garbage and rubbish must be disposed of in a manner as to prevent the attraction of rodents, flies, and all other insects and vermin. Garbage and rubbish must be disposed in a manner as to minimize the transmission of infectious diseases and minimize odor.

18-006.19A4 The facility must provide and maintain adequate lighting, environmental temperatures, and sound levels in all areas that are conducive to the care and treatment provided.

18-006.19A5 The facility must maintain and equip the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

18-006.19B Equipment, Fixtures, Furnishings: The facility must provide equipment, fixtures, and furnishings and maintain these things so they are clean, safe and in good repair.

18-006.19B1 The facility must provide equipment adequate for meeting the client's needs as specified in the client's individualized service plan.

18-006.19B2 The inpatient facility must furnish common areas and client sleeping areas with beds, chairs, sofas, tables, and storage items that are comfortable and reflective of client needs and preferences. If the client chooses to use his/her own furnishings, the facility must reasonably accommodate the client's choice.

18-006.19B3 The outpatient facility must furnish treatment areas with chairs or sofas and tables that are comfortable and reflective of client needs.

18-006.19B4 The facility must establish and implement a process designed for routine and preventative maintenance of equipment and furnishings to ensure that the equipment and furnishings are safe and functions to meet their intended use.

18-006.19C Linens: The inpatient facility must be responsible for providing each client with an adequate supply of clean bed, bath, and other linens as necessary for care and treatment. Linens must be in good repair.

18-006.19C1 The facility must establish and implement procedures for the storage and handling of soiled and clean linens.

18-006.19C2 When the facility provides laundry services, water temperatures to laundry equipment must exceed 160 degrees Fahrenheit or the laundry may be appropriately sanitized or disinfected by other acceptable methods.

18-006.19D Pets: The facility must make certain that any facility owned pet does not negatively affect clients. The facility must have policies and procedures regarding pets that include:

1. An annual examination by a licensed veterinarian;
2. Vaccinations as recommended by the licensed veterinarian that include, at a minimum, current rabies vaccinations for dogs, cats, and ferrets;
3. Provision of pet care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites; and
4. Responsibility for care and supervision of the pet by facility staff.

18-006.19E Environmental Safety: The facility must be responsible for maintaining the facility in a manner that minimizes accidents.

18-006.19E1 The facility must maintain the environment to protect the health and safety of clients by keeping surfaces smooth and free of sharp edges, mold and dirt; keeping floors free of unsafe objects and slippery or uneven

surfaces and keeping the environment free of other conditions which may pose a potential risk to the health and safety of the clients.

18-006.19E2 The facility must maintain all doors, stairways, passageways, aisles, or other means of exit in a manner that provides safe and adequate access for care and treatment.

18-006.19E3 The inpatient facility must provide water for bathing and hand washing at safe and comfortable temperatures to protect clients from the potential for burns and scalds.

18-006.19E3a The facility must establish and implement policies and procedures:

1. To determine the client's mental, physical, and psychological ability to protect himself or herself from injury due to hot water; and
2. To maintain, whether by means of plumbing devices or direct staff monitoring, water temperatures that accommodate client safety, comfort and preferences.

18-006.19E3b Water at bathing and hand washing fixtures must not exceed 125 degrees Fahrenheit.

18-006.19E4 The facility must establish and implement policies and procedures to ensure hazardous/poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation, or consumption of the hazardous/poisonous materials by clients.

18-006.19E5 The facility must restrict access to mechanical equipment which may pose a danger to clients.

18-006.19F Disaster Preparedness and Management: The facility must establish and implement disaster preparedness plans and procedures for inpatient facilities to ensure that clients' care and treatment, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations, or for outpatient facilities, situations causing clients to remain at the substance abuse treatment center. Such plans and procedures must address and delineate:

1. How the facility will maintain the proper identification of each client to ensure that care and treatment coincides with the client's needs:
2. How the facility will move clients to points of safety or provide other means of protection ~~in case of fire, tornado, or other natural disasters~~ when all or part of the building is damaged or uninhabitable due to

- natural or other disaster. This must include:
- a. Specification of the number and type of transportation vehicles that are to be used;
  - b. The method by which such vehicles will be accessed, whether owned and operated by the facility or under contract with another entity. If transportation is to be provided by a contracted entity, the name, address, telephone number, and the type of vehicle to be used must be included in the Disaster Preparedness Plan; and
  - c. The timeline for transportation of clients to points of safety.
3. How the facility will protect clients during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
  4. How the facility will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
  5. How the facility will provide for the comfort, safety, and well-being of clients in the event of 24 or more consecutive hours of:
    - a. Electrical or gas outage;
    - b. Heating, cooling, or sewer system failure; or
    - c. Loss or contamination of water supply.

~~18-006.19F1 The facility must establish plans to move clients to points of safety or provide other means of protection in case of fire, tornado, or other natural disasters or the threat of ingestion, absorption or inhalation of hazardous materials.~~

~~18-006.19F2 The inpatient facility must ensure that food, water, medicine and medical supplies, and other necessary items for care and treatment are available and obtainable from alternate sources.~~

~~18-006.19F3 The inpatient facility must establish plans to move and house clients in points of safety when the building or a portion of the building is damaged to the point it is uninhabitable. Damage may be due to fire, tornadoes or other disasters.~~

~~18-006.19F4 The facility must establish plans to provide for the comfort, safety, and well being of clients in the event of electrical or gas outage, heating, cooling or sewage systems failure, or loss or contamination of water supply.~~

18-007 PHYSICAL PLANT STANDARDS: All facilities must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided. This section applies to both inpatient and outpatient facilities, except where specified otherwise.

18-007.01 Support Areas: The facility may share the following support service areas

among the detached structures, care and treatment areas, and with other licensed facilities.

18-007.01A Dietary

18-007.01A1 If food preparation is provided on site, the facility must dedicate space and equipment for the preparation of meals. If facility food services provide for more than 16 clients, the facility must comply with the Food Code.

18-007.01A2 A facility which provides food services for 16 or fewer clients or uses a food preparation area only for training or activity purposes, must develop and implement policies and procedures to ensure the following:

1. Automatic dishwasher has a final rinse cycle temperature not less than 150 degrees Fahrenheit;
2. Foods are stored, prepared, transported, and served at proper temperatures. Temperatures of potentially hazardous foods must be 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times;
3. Food preparation and eating areas are maintained in a sanitary manner;
4. All equipment and utensils, including dishes, glassware and silverware, used in the serving or preparation of food or drink for individuals are thoroughly cleaned after each use and stored in a manner to assure they are kept free of dust, insects, and contamination.

18-007.01B Laundry: The inpatient facility must provide laundry services either by contract or on-site by the facility.

18-007.01B1 Contract: If contractual services are used, the facility must have areas for soiled linen awaiting pickup and separate areas for storage and distribution of clean linen.

18-007.01B2 On-site: If on-site services are provided, the facility must have areas dedicated to laundry,

18-007.01B2a If the facility provides a personal laundry area, it must be equipped with a washer and dryer for use by clients. In new construction, the facility must provide a conveniently located sink for soaking and hand washing of laundry.

18-007.01B2b If the facility processes bulk laundry, the laundry area must be divided into separate soiled (sort and washer areas) and clean (drying, folding, and mending areas) rooms.

18-007.01C Pharmaceutical: If the facility provides pharmacy services as defined in the Practice of Pharmacy, Neb. Rev. Stat. Sections §§ 71-1,142 to 71-1,147.61, those services must conform with the law.

18-007.01D House kKeeping Room: The facility must have a room with a service sink and space for storage of supplies and housekeeping equipment.

18-007.02 Care and Treatment Areas: The facility must not share the following care and treatment areas among the detached structures or with a facility operated by another licensee.

18-007.02A Inpatient facilities care and treatment areas must have the following staff support areas:

1. Control point: an area or areas for charting and client records;
2. Medication station: an area for storage and distribution of drugs and routine medications. If the facility administers or provides medication, the facility must have a medication station. Distribution may be done from a medicine preparation room or area, from a self-contained medication dispensing unit, or by another system. If used, a medication preparation room or area must be under visual control of staff.
3. Utility area: a work area where clean materials are assembled. The work area must contain a work counter, a hand washing fixture, and storage facilities for clean supplies. If the area is used only for storage and holding as part of a system for distribution of clean and sterile supply materials, the work counter and hand washing fixtures may be omitted. A facility must have separate workrooms or holding rooms for soiled materials. A workroom for soiled materials must have a hand washing sink.
4. Equipment storage: space to store equipment, stretchers, wheelchairs, supplies, and linen out of the path of normal traffic.

18-007.02B: In outpatient facilities:

1. If the facility provides both inpatient and outpatient services at the same location, the outpatient program must not interfere with clients residing at the facility;
2. Furniture and equipment must meet care and treatment needs;
3. The facility must provide toilets which are easily accessible from all program areas; and
4. The facility must provide sufficient inside and outside space to accommodate the full range of program activities and services.

18-007.03 Construction Standards: All facilities must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and

treatment to be provided.

18-007.03A Codes and Guidelines

18-007.03A1 New Construction: New construction must comply with the following codes and guidelines to provide a safe and accessible environment that is conducive to the care and treatment to be provided:

1. Building: ~~The~~ “Building Construction Act”, Neb. Rev. Stat. Sections §§ 71-6401 to 71-6407;
2. Plumbing: ~~The~~ “Plumbing Ordinance or Code”, Neb. Rev. Stat. Section §18-1915;
3. Electrical: ~~The~~ State Electrical Act, Neb. Rev. Stat. Sections §§81-2101 to 81-2143;
4. Elevators: ~~The~~ “American National Standard Safety Nebraska Elevator Code, Neb. Rev. Stat. Section § 48-418-.12 and Department of Labor Regulations for Elevators and Escalators”, 230 NAC 1;
5. Boiler: ~~The~~ “Boiler Inspection Act”, Neb. Rev. Stat. Sections § 48-719 to 48-743, and regulations promulgated thereunder, 220 NAC 4-28; and
6. Accessibility: “Nebraska Accessibility Requirements”, State Fire Marshal Regulations, found at 156 NAC 1-12., and
7. Energy: Nebraska Energy Code, Neb. Rev. Stat. Sections §§ 81-1608 to 81-1626, for construction initiated on or after July 1, 2005.

18-007.03A2 All Facilities: All facilities must comply with the following applicable codes and standards to provide a safe environment:

1. Fire Codes: The “Nebraska State Fire Code Regulations”, State Fire Marshal, found at 153 NAC 1; and
2. The Food Code, Neb. Rev. Stat. Section § 81-2,244.01, as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions except as noted in 175 NAC 18-007.01A.

18-007.03A3 Existing and New Facilities: Existing and new facilities must comply with the physical plant standards contained in 175 NAC 18-007. The facility must maintain all building materials and structural components so that total loads imposed do not stress materials and components more than one and one-half times the working stresses allowed in the building code for new buildings of similar structure, purpose or location.

18-007.03B Conflicts in Standards: In situations where the referenced codes and

guidelines conflict with these regulations, the adopted rules and regulations of the Department and the Nebraska State Fire Marshal must prevail.

18-007.03C Interpretations: All dimension, sizes, and quantities; noted herein must be determined by rounding fractions to the nearest whole number.

18-007.03D Floor area is the space with ceilings at least seven feet in height and excludes enclosed storage, toilets and bathing rooms, corridors and halls. The space beyond the first two feet of vestibules and alcoves less than five feet in width must not be included in the required floor area. In rooms with sloped ceilings, at least half of the ceiling must be at least seven feet in height. Areas where the ceiling is less than five feet in height must not be included in the required floor area.

18-007.03E: The inpatient facility must have dining areas which:

1. Have adequate light and ventilation;
2. Have tables and chairs that accommodate the clients' needs;
3. Have floor area of 15 square feet per client in existing and new facilities and 20 square feet per client in new construction;
4. Not be used for sleeping, offices or corridors; and-
5. Be arranged so that all clients are able to eat meals at an appropriate time by having:
  - a. All clients eat at the same time;
  - b. Clients eat in different shifts; or
  - c. Open times for client meals.

18-007.03F Activity Areas: A facility must have space for client socialization and leisure time activities. Activity areas must:

1. Have furnishings to accommodate group and individual activities;
2. Have a floor area of at least 15 square feet per client residing in bedrooms and may be combined with dining areas;
3. Not be used for sleeping, offices, or as a corridor; and
4. Be available to all clients.

18-007.03G Bathing Rooms: The inpatient facility must provide a bathing room consisting of a tub and/or shower. Tubs and showers regardless of location must be equipped with hand grips or other assistive devices as needed or desired by the bathing client.

18-007.03G1 In new facilities and new construction, a central bathing room must open off the corridor and contain a toilet and sink or have an adjoining toilet room.

18-007.03G2 Bathing Fixtures: The facility must have the following minimum

number of bathing fixtures:

1. One fixture per 20 licensed beds in existing facilities; and
2. One fixture per eight licensed beds in new facilities and new construction.

18-007.03H Toilet Rooms: The inpatient facilities must have a toilet and sink adjoining each bedroom or shared toilet facilities may be provided as follows:

1. One fixture per eight licensed beds in existing facilities; and
2. One fixture per four licensed beds in new facilities and new construction.

18-007.03I Client Bedrooms: The inpatient facility, except in emergency detoxification programs, must provide bedrooms which allow for sleeping, afford privacy, provide access to furniture and belongings, and accommodate the care and treatment provided to the client. All client bedrooms must:

1. Be a single room located within an apartment, dwelling, or dormitory-like structure;
2. Be located on an outside wall with an operable window with a minimum glass size of 6 square feet per client. New construction must have windows that provide an unobstructed view of at least 10 feet;
3. Contain at least 35 cubic feet storage volume per client in dressers, closets or wardrobes; and
4. Allow, in multiple bedrooms, for an accessible arrangement of furniture which provides a minimum of 3 feet between beds.

18-007.03I1 All client bedrooms must not:

3. Be accessed through a bathroom, food preparation area, laundry, office, or another bedroom; or
4. Be located in any garage, storage area, shed or similar detached buildings;

18-007.03I2 The minimum floor space in client bedrooms is as follows:

18-007.03I2a Existing Facility:

1. For single bedrooms: 70 square feet.
2. For multiple bedrooms: 50 square feet per bed;
3. Apartments or dwellings: 120 square feet for one client plus 100 square feet for each additional client.

18-007.03I2b New Facility:

1. For single bedrooms: 70 square feet.
2. For multiple bedrooms: 50 square feet per bed, with a maximum of 4 beds per room.
3. Apartments or dwellings: 120 square feet for one client plus 100 square feet for each additional client.

18-007.03I2c New Construction:

1. For single bedrooms: 80 square feet.
2. For multiple bedrooms: 60 square feet per bed, with a maximum of 4 beds per room.
3. For apartments or dwellings: 150 square feet for one client plus 110 square feet for each additional client.

18-007.03I2d Emergency Detoxification Programs: Beds used in an emergency detoxification program must be in a room which has:

1. A minimum of 50 square feet per bed;
2. A minimum of 3 feet between beds
3. Appropriate temperature control, ventilation, and lighting;
4. No unsafe wall or ceiling fixtures and sharp edges;
5. A way to observe the client, such as, an observation window or, if necessary, flat wall mirrors so that all areas of the room are observable by staff from the outside of the room; and
6. A way to assure that the client cannot hold the door closed so as to deny staff immediate access to the room.

~~18-007.03J (Reserved) Observation Rooms for Seclusion and Detoxification: If the facility provides behavior intervention methods such as seclusion or time-out, the facility must provide an area which has:~~

- ~~5. Appropriate temperature control, ventilation, and lighting;~~
- ~~6. No unsafe wall or ceiling fixtures and sharp edges;~~
- ~~7. A way to observe the client, such as, an observation window or, if necessary, flat wall mirrors so that all areas of the room are observable by staff from outside of the room; and~~
- ~~8. A way to assure that the client cannot hold the door closed so as to deny staff immediate access to the room.~~

18-007.03K Corridors: The facility corridors must be wide enough to allow passage and be equipped as needed by the clients with safety and assistive devices to minimize injury. All stairways and ramps must have handrails.

18-007.03L Doors: The facility doors must be wide enough to allow passage and be equipped privacy, safety, and assistive devices to minimize client injury. All

bedroom, toilet, and bathing room doors must provide privacy yet not create seclusion or prohibit staff access for routine or emergency care.

18-007.03L1 In new construction, the door of a toilet or bathing room with less than 50 square feet of clear floor area and dedicated to client use, must not swing inward.

18-007.03M Outdoor Areas: The inpatient facility must provide an outdoor area for client usage. It shall be equipped and situated to allow for client safety and abilities.

18-007.03N Privacy: The inpatient facility must provide window coverings to ensure visual privacy for each client.

18-007.04 Building Systems: Facilities must have building systems that are designed, installed, and operated in such a manner as to provide for the safety, comfort, and well being of the client.

18-007.04A Water and Sewer Systems: The facility must have and maintain an accessible, adequate, safe, and potable supply of water. Where an authorized public water supply of satisfactory quantity, quality, and pressure is available, the facility must be connected to it and its supply used exclusively.

18-007.04A1 The collection, treatment, storage, and distribution potable water system of a facility that regularly services 25 or more individuals must be constructed, maintained, and operated in accordance with all provisions of the Nebraska Safe Drinking Water Act and Title 179, Regulations Governing Public Water Systems.

18-007.04A2 The collection, treatment, storage and distribution potable water system of a facility that serves less than 25 individuals on a regular basis must be maintained and operated as if it were a public water system in accordance with the Regulations Governing Public Water Systems, 179 NAC 2-002, 3 and 4. These facilities must report to the Department the result of all tests that indicate the water is in violation of the standards set out in 179 NAC 2-002 or 3. These facilities must construct all water wells in accordance with Title 178 NAC 12, ~~Rules and Regulations Governing a Private Water Well.~~ Water Well Construction, Pump Installation, and Water Well Decommissioning Standards.

18-007.04A3 The water distribution system must have anti-siphon devices, and air-gaps to prevent potable water system and equipment contamination.

18-007.04A4 The facility must provide continuously circulated filtered and treated water systems as required for the care and treatment equipment used in the facility.

18-007.04A5 Facilities must maintain a sanitary and functioning sewage system.

18-007.04B Hot Water System: The facility must maintain hot and cold water to all hand washing and bathing locations. The hot water system must have the capacity to provide continuous hot water in at a temperature in a range as required in 175 NAC 18-006.

18-007.04C Heating and Cooling Systems: The facility must provide a heating and air conditioning system for the comfort of the client and capable of maintaining the temperature in client care and treatment areas as follows:

18-007.04C1 In existing and new facilities, the systems must be capable of producing a temperature of at least 70 degrees Fahrenheit during heating conditions and no more than 85 degrees Fahrenheit during cooling conditions.

18-007.04C2 In new construction, the systems must be capable of producing a temperature of at least 75 degrees Fahrenheit during heating conditions and no more than 80 degrees Fahrenheit during cooling conditions.

18-007.04C3 In new construction, central air distribution and return systems must have filters.

18-007.04C4 Airflow must move from clean to soiled locations.

18-007.04D Ventilation System: The facility must provide exhaust and clean air to prevent the concentrations of contaminants which impair health or cause discomfort to clients and employees.

18-007.04D1 Existing and new facilities must have adequate ventilation.

18-007.04D2 New construction must provide mechanical exhaust ventilation for windowless toilets, baths, laundry rooms, housekeeping rooms, kitchens and similar rooms that provides 5 five air changes per hour in residential living areas.

18-007.04E Electrical System: The facility must have an electrical system that has sufficient capacity to maintain the care and treatment services that are provided and that properly grounds care and treatment areas.

18-007.04E1 The facility must have ground fault circuit interrupters protected outlets in wet areas and within 6 feet of sinks.

18-007.04E2 All facilities must provide the minimum average illumination levels as follows:

1. General purposes areas – 5 foot candles;
2. Personal care and dining areas - 20 foot candles; and
3. Reading and activity areas – 30 foot candles.

18-007.05 Waivers: The Department may waive any provision of these regulations relating to construction or physical plant requirements of a substance abuse treatment center upon proof by the licensee satisfactory to the Department that:

1. The waiver would not unduly jeopardize the health, safety, or welfare of the client;
2. The provision would create an unreasonable hardship for the facility; and
3. The waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of Medicare or Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

18-007.05A Unreasonable Hardship: In evaluating the issue of unreasonable hardship, the Department ~~must~~ will consider the following:

1. The estimated cost of the modification or installation;
2. The extent and duration of the disruption of the normal use of areas used by persons residing in the facility resulting from construction work;
3. The estimated period over which the cost would be recovered through reduced insurance premiums and increase reimbursement related to costs;
4. The availability of financing; and
5. The remaining useful life of the building.

18-007.05B Waiver Terms and Conditions: A waiver may be granted under terms and conditions and for a period of time applicable and appropriate to the waiver, including:

1. Waivers that are granted to meet the special needs of a client remain in effect as long as required by the client.
2. Waivers may be granted for a period of time that ends at the time the conditions of approval no longer exist.
3. Waivers may be granted to permit a facility time to come into compliance with the physical plan standards for a period of one year. Upon submission of proof of ongoing progress, the waiver may be continued for an additional year.
4. The facility must submit a written request to the Department for waiver of any construction or physical plant requirements set forth in 175 NAC 18-007.

18-007.05C Denial of Waiver: If the Department denies a facility's request for

waiver, the facility may request an administrative hearing as provided in the Administrative Procedure Act and the Department's rules and regulations adopted and promulgated under the APA.

18-008 DENIAL, REFUSAL TO RENEW, OR DISCIPLINARY ACTION

18-008.01 Grounds for Denial, Refusal to Renew, or Disciplinary Action

18-008.01A The Department may deny or refuse to renew a substance abuse treatment center license for failure to meet the requirements for licensure, including:

1. Failing an inspection specified in 175 NAC 18-005;
2. Having had a license revoked within the two-year period preceding an application; or
3. Any of the grounds specified in 175 NAC 18-008.01B.

18-008.01B The Department may take disciplinary action against a substance abuse treatment center facility license for any of the following grounds:

1. Violation of any of the provisions of the Health Care Facility Licensure Act or 175 NAC 18;
2. Committing, permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of a client or employee;
4. A report from an accreditation body sanctioning, modifying, terminating, or withdrawing the accreditation of the facility;
5. Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the facility for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of such departments;
  - b. Discrimination or retaliation against a client or employee who has submitted a complaint or information to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;
  - c. Discrimination or retaliation against a client or employee who has presented a grievance or information to the office of the state long term care ombudsman;
  - d. Failure to allow a state long term care ombudsman or an ombudsman advocate access to the facility for the purposes of investigation necessary to carry out the duties of the office of the state long term care ombudsman.;

- e. Violation of the Emergency Box Drug Act;
- f. Failure to file a report of payment or action taken due to a liability claim or an alleged violation required by Neb. Rev. Stat. Section § 71-168.02;
- g. Violation of the Medication Aide Act; or
- h. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. Sections §§ 28-372 and 28-711.

18-008.02 Procedures for Denial, Refusal to Renew, or Disciplinary Action

18-008.02A If the Department determines to deny, refuse renewal of, or take disciplinary action against a license, the Department ~~must~~ will send a notice to the applicant or licensee by certified mail to the last address shown on its records. The notice ~~must~~ will state the determination, including a specific description of the nature of the violation and the statute or regulation violated, and the type of disciplinary action pending.

18-008.02B The denial, refusal to renew, or disciplinary action ~~is to~~ becomes final 15 days after the mailing of the notice unless the applicant or licensee, within the 15 day period, makes a written request to the Director for an informal conference or an administrative hearing.

18-008.02C Informal Conference

18-008.02C1 At the request of the applicant or licensee, the Department ~~must~~ will hold an informal conference within 30 days of the receipt of the request. The conference must be held in person, or by other means, at the request of the applicant or licensee. If the pending action is based on an inspection, the Department's representative at the conference ~~must~~ will not be the individual who did the inspection.

18-008.02C2 Within 20 working days of the conference, the Department representative ~~must~~ will state in writing the specific reasons for affirming, modifying, or dismissing the notice. The representative ~~must~~ will send a copy of the statement to the applicant or licensee by certified mail to the last address shown in the Department's records and a copy to the Director.

18-008.02C3 If the applicant or licensee successfully demonstrates at the informal conference that the deficiencies should not have been cited in the notice, the Department ~~must~~ will remove the deficiencies from the notice and rescind any sanction imposed solely as a result of those cited deficiencies.

18-008.02C4 If the applicant or licensee contests the affirmed or modified notice, the applicant or licensee must submit a request for hearing in writing to the Director within five working days after receipt of the statement.

18-008.02D When an applicant or a licensee contests the notice and requests a hearing, the Department ~~shall~~ will hold a hearing in accordance with the Administrative Procedures Act (APA) and with the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who must be allowed fees at the rate prescribed by Neb. Rev. Stat. sections §§ 33-139 and 33-139.01.

18-008.02D1 On the basis of evidence presented at the hearing, the Director ~~must~~ will affirm, modify, or set aside the determination. The Director's decision ~~must~~ will:

1. Be in writing;
2. Be sent by registered or certified mail to the applicant or licensee; and
3. Become final 30 working days after mailing unless the applicant or licensee, within the 30-day period, appeals the decision.

18-008.02D2 An applicant or a licensee's appeal of the Director's decision ~~must~~ will be in accordance with the Administrative Procedure Act.

### 18-008.03 Types of Disciplinary Action

18-008.03A The Department may impose any one or a combination of the following types of disciplinary action against the license:

1. A fine not to exceed \$10,000 per violation;
2. A prohibition on admissions or re-admissions, a limitation on enrollment, or a prohibition or limitation on the provision of care or treatment;
3. A period of probation not to exceed two years during which the substance abuse treatment center may continue to operate under terms and conditions fixed by the order of probation;
4. A period of suspension not to exceed three years during which the substance abuse treatment center may not operate; and
5. Revocation which is a permanent termination of the license. The licensee may not apply for a license for a minimum of two years after the effective date of the revocation.

18-008.03B In determining the type of disciplinary action to impose, the Department ~~must~~ will consider:

1. The gravity of the violation, including the probability that death or serious physical or mental harm will result;
2. The severity of the actual or potential harm;
3. The extent to which the provisions of applicable statutes, rules, and

- regulations were violated;
4. The reasonableness of the diligence exercised by the substance abuse treatment center in identifying or correcting the violation;
  5. Any previous violations committed by the substance abuse treatment center; and
  6. The financial benefit to the substance abuse treatment center of committing or continuing the violation.

18-008.03C If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action as described in 175 NAC 18-008.03A.

18-008.03D Temporary Suspension or Temporary Limitation: If the Department determines that clients are in imminent danger of death or serious physical harm, the Director may:

1. Temporarily suspend or temporarily limit the facility license, effective when the order is served upon the facility. If the licensee is not involved in the daily operation of the facility, the Department ~~must~~ will mail a copy of the order to the licensee, or if the licensee is a corporation, to the corporation's registered agent;
2. Order the immediate removal of ~~residents~~ clients; and
3. Order the temporary closure of the facility pending further action by the Department.

The Department ~~must~~ will simultaneously institute proceedings for revocation, suspension, or limitation of the license, and ~~must~~ will conduct an administrative hearing no later than ten days after the date of the temporary suspension or temporary limitation.

18-008.03D1 The Department ~~must~~ will conduct the hearing in accordance with the Administrative Procedure Act and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who ~~shall~~ must be allowed fees at the rate prescribed by Neb. Rev. Stat. sections §§ 33-139 and 33-139.01.

18-008.03D2 If a written request for continuance of the hearing is made by the licensee, the Department ~~must~~ will grant a continuance, which may not exceed 30 days.

18-008.03D3 On the basis of evidence presented at the hearing, the Director ~~must~~ will:

1. Order the revocation, suspension, or limitation of the license; or
2. Set aside the temporary suspension or temporary limitation.

If the Director does not reach a decision within 90 days of the date of the temporary suspension or temporary limitation, the temporary suspension or temporary limitation expires.

18-008.03D4 Any appeal of the Department's decision after hearing must be in accordance with the APA.

18-008.04 Reinstatement from Disciplinary Probation, Suspension, and Re-licensure Following Revocation

18-008.04A Reinstatement at the End of Probation or Suspension

18-008.04A1 Reinstatement at the End of Probation: A license may be reinstated at the end of probation after the successful completion of an inspection, if the Department determines an inspection is warranted.

18-008.04A2 Reinstatement at the End of Suspension: A license may be reinstated at the end of suspension following:

1. Submission of an application to the Department for renewal that conforms to the requirements of 175 NAC 18-003.02;
2. Payment of the renewal fee as specified in 175 NAC 18-004.10; and
3. Successful completion of an inspection.

The Department ~~must~~ will reinstate the license when it finds, based on an inspection as provided for in 175 NAC 18-005, that the facility is in compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 18-006 and 18-007.

18-008.04B Reinstatement Prior to the Completion of Probation or Suspension

18-008.04B1 Reinstatement Prior to the Completion of Probation: A licensee may request reinstatement prior to the completion of probation and must meet the following conditions:

1. Submit a petition to the Department stating:
  - a. The reasons why the license should be reinstated prior to the probation completion date; and
  - b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the probation; and
2. Successfully complete any inspection that the Department determines necessary.

18-008.04B2 Reinstatement Prior to the Completion of Suspension: A licensee may request reinstatement prior to the completion of suspension and must meet the following conditions:

1. Submit a petition to the Department stating:
  - a. The reasons why the license should be reinstated prior to the suspension completion date; and
  - b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the suspension;
2. Submit a written renewal application to the Department as specified in 175 NAC 18-003.02;
3. Pay the renewal fee as specified in 175 NAC 18-004.10; and
4. Successfully complete an inspection.

18-008.04B3 The Director ~~must~~ will consider the petition submitted and the results of any inspection or investigation conducted by the Department and:

1. Grant full reinstatement of the license;
2. Modify the probation or suspension; or
3. Deny the petition for reinstatement.

18-008.04B4 The Director's decision is final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within the 30-day period. The requested hearing ~~must~~ will be held according to rules and regulations of the Department for administrative hearings in contested cases.

18-008.04C Re-Licensure After Revocation: A facility license that has been revoked is not eligible for re-licensure until two years after the date of revocation.

18-008.04C1 A facility seeking re-licensure must apply for an initial license and meet the requirements for initial licensure in 175 NAC 18-003.01.

18-008.04C2 The Department ~~must~~ will process the application for re-licensure in the same manner as specified in 175 NAC 18-003.01.

Approved by the Attorney General: ~~January 6, 2004~~  
Approved by the Governor: ~~March 17, 2004~~  
Filed by the Secretary of State: ~~March 17, 2004~~  
  
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